REMARKS

Claims 1-20 are pending. Claims 1, 3, 15, 16, 17, and 20 are amended. No new matter has been added as a result of these amendments.

Claim Rejections – 35 U.S.C. § 112

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the rejection contends that the claimed "defined minimum size allotment" is ambiguous as to whether the recited allotment of parts is assigned to a first customer and then reassigned to a second customer, or whether the limitation requires a minimum size allotment for each allotment of parts to be the same quantity. Applicants have amended Claims 1, 17, and 20 to claim a defined minimum size allotment of the parts to a customer location having a current priority and then reprioritizing the priorities of all locations and assigning a defined minimum size allotment of the parts to a customer location having a new current priority. Therefore, Applicants request reconsideration and withdrawal of the rejections under 35 U.S.C. §112.

Claim Rejections – 35 U.S.C. § 102

Claims 1-15, 17, and 20 are rejected under 35 U.S.C. 102(e) as being allegedly anticipated by Jenkins et al. (US 2002/0188499), hereinafter "Jenkins."

Applicants respectfully assert that Jenkins fails to teach all of the claimed elements of Independent Claims 1, 17, and 20.

Claim 1:

Amended Claim 1 recites in part:

> ...using the processor to form a shipment plan by iteratively assigning a defined minimum size allotment of the parts to a customer location having a current priority and then reprioritizing the priorities of all customer locations and assigning a defined minimum size allotment of the parts to a customer location having a new current priority, until one of all of the parts from inventory have been assigned and no customer location needs more of the parts assigned, wherein each current priority is determined from all customer locations for each iteration (emphasis added).

Applicants respectfully assert that Jenkins does not teach or suggest, "assigning a defined minimum size allotment of the parts to a customer location having a current priority and then reprioritizing the priorities of all customer locations and assigning a defined minimum size allotment of the parts to a customer location having a new priority,...wherein each current priority is determined from all customer locations for each iteration," as claimed in Claim 1.

As understood by Applicants, Jenkins discloses a system and method for resolving conflicts with respect to product availability (Abstract). In particular, Jenkins teaches that when the source stock is limited, the planning component 210 will be told which locations have priority over others when meeting demand, thereby meeting the demand of higher priority locations first (paragraph 0178, 0234-0236). Jenkins further teaches that where there is coincident demand and not enough stock at the source to meet it, a fair-share allocation is used to determine the percentage of available inventory to allocate to each destination, thereby granting each destination a portion of the available stock (paragraphs 0205-0210). Jenkins teaches the use of a demand list that contains all

the locations sorted by location in alphabetical order (A-Z), then starting with the first location on the list, it uses the fair-share allocation to determine each location's portion of the available stock, followed by the creation of a subsequent list as needed with the sorting in reverse order (Z-A) for additional fair-share allocations (Paragraphs 209-210).

Jenkins also teaches that with regards to meeting shipping demands, all demands at the highest priority location are met before the demands at any lower priority locations are met (Paragraph 0234). Jenkins further discloses methods for efficiently loading shipments such that individual shipping containers are full and shipments are received within their needed arrival date (Paragraphs 0262-272). In particular, Jenkins discloses methods for completing a container load for shipping after a necessary "must go" shipment has been loaded into the container (Paragraph 0263, 0266, 0267, and 0269). In particular, Jenkins discloses that the priority for adding shipments to a partially filled container may be determined so that a shipment with the highest priority is loaded next (Paragraph 0270). This priority value is calculated for each shipment between the source and the destination it is working with (i.e., the destination of the shipping container) (Paragraph 0270).

To the extent that Jenkins teaches location prioritization and the use of a fair-share allocation when available inventory is insufficient to meet demand, and the prioritization of shipments to a destination, Applicants respectfully assert that Jenkins does not teach or suggest "assigning a defined minimum size allotment of the parts to a customer location having a current priority and then reprioritizing the priorities of all

customer locations and assigning a defined minimum size allotment of the parts to a customer location having a new priority,...wherein each current priority is determined from all customer locations for each iteration," as claimed in Claim 1.

Applicants respectfully assert and the rejection agrees that "assigning a defined minimum size allotment of the parts to a customer location having a current priority and then reprioritizing the priorities of all customer locations and assigning a defined minimum size allotment of the parts to a customer location having a new priority," as claimed in Claim 1, is not the same as a fair-share allocation, wherein each location is allocated a portion of the available inventory before reprioritizing for the next fair-share allocation, wherein each location is again allocated a portion of the remaining available inventory, as disclosed by Jenkins.

However, as understood by Applicants, the rejection is reading the automated load builder 310 calculating a priority value for each recommended shipment between the source and the destination it is working with, of Jenkins (Paragraph 0270), on Applicants' claimed iterative process of reprioritizing customer locations after each allocation before the subsequent allocation, as claimed in Claim 1. Applicants respectfully disagree.

Applicants respectfully assert that rather than disclosing the reprioritizing of locations, as contended by the rejection, Jenkins is teaching the prioritizing of shipments to a single location so as to fill a shipping container (Paragraph 0263 and 0270). Applicants note that Jenkins teaches that every time the automated load builder 310 adds

a shipment to a load, it automatically recalculates priority values and resorts recommended shipments by priority (Paragraph 0272). Applicants respectfully assert that Jenkins is teaching the prioritizing of shipments to a single destination to optimize the load, with the priorities guiding the generation of better quality loads (Paragraph 0272). Applicants respectfully assert that the iterative reprioritization of individual shipments to a destination does not teach or suggest the reprioritization of locations, as claimed in Claim 1.

Therefore, Applicants respectfully assert that embodiments as recited by Claim 1 are not rendered anticipated by Jenkins. Accordingly, Applicants respectfully assert that dependent Claims 2-16 are patentable by virtue of their dependency on a patentable base claim, as well as for their additional recited patentable features.

Claim 17:

Independent Claim 17 recites features similar to that of independent Claim 1 and is therefore patentable for at least the same or similar reasons as recited above. Accordingly, Applicants respectfully assert that dependent Claims 18-19 are patentable by virtue of their dependency on a patentable base claim, as well as for their additional recited patentable features.

Claim 20:

Independent Claim 20 recites features similar to that of independent Claim 1 and is therefore patentable for at least the same or similar reasons as recited above.

For the above reasons, Applicants request reconsideration and withdrawal of the rejections under 35 U.S.C. §102.

Claim Rejections – 35 U.S.C. §103

Claim 16 is rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Jenkins, in view of Chappel (US 7,236,940), hereinafter "Chappel."

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Jenkins, in view of Benda et al. (US 6,937,992), hereinafter "Benda."

As Chappel and Benda do not cure the deficiencies of Jenkins as described above, Applicants respectfully assert that Claims 16 and 18-19 are patentable by virtue of their dependency on patentable base claims, as well as for their additional recited patentable features.

For the above reasons, Applicants request reconsideration and withdrawal of the rejections under 35 U.S.C. §103.

CONCLUSION

In light of the above listed remarks, reconsideration of rejected Claims is requested. Based on the arguments presented above, it is respectfully submitted that Claims 1-20 overcome the rejections of record and, therefore, allowance of Claims 1-20 is earnestly solicited.

Please charge any additional fees that may be required to maintain pendency of the present application, or apply any credits to our PTO deposit account number: 50-4160.

Respectfully submitted,

MURABITO, HAO & BARNES LLP

Dated: June 2, 2010

/Jeffrey A. Lehman/
Jeffrey A. Lehman
Registration No. 65,494

MURABITO, HAO & BARNES LLP
Two North Market Street
Third Floor
San Jose, California 95113

(408) 938-9060 Voice
(408) 938-9069 Facsimile